

REMARKS

Claims 1-10 are pending and under consideration.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

In the outstanding Office Action, claims 1-10 are rejected under 35 U.S.C. §102(e) as being anticipated by the U.S. Patent Application Publication 2002/0133387 to Wilson et al. (hereinafter "Wilson"). In the Amendment filed on May 31, 2006, Applicant argued that Wilson is not a valid reference because the reference date of Wilson is June 29, 2001, which is after January 31, 2001, the priority date of the present application. In order to perfect the priority, and thereby to disqualify Wilson, Applicant filed the translation of the Japanese Patent Application No. 2001-024774. In the outstanding Office Action, the Examiner responds that he relies on the date of the provisional application of Wilson, which is June 29, 2000. The courts' position relative to the relation between a provisional application and a non-provisional application claim priority from the provisional application is such that a patent was considered invalid when the disclosure of the provisional application did not support the claims. See, *New Railhead Mfg., L.L.C. v. Vermeer Mfg. Co.*, 298 F.3d 1290. Therefore, in order to use the date of the provisional application, the Examiner must show support for the rejections in the provisional application. Applicant respectfully notes that the disclosure of the provisional application No. 60/214,910 does not include the paragraphs used to reject the claims. Specifically, paragraphs [0024], [0029], [0035], [0037], [0051], [0064], [0065], and [0091] of Wilson do not have support in the provisional application No. 60/214,910. In view of the above arguments, Applicant respectfully requests withdrawal of the FINALITY of the Office Action.

Even if *arguendo*, Wilson were a valid reference, Wilson would fail to teach or suggest all the features of the claims. Wilson is directed to a supply chain management system which facilitates the efficient allocation and shipment of items based on geographical proximity. As illustrated in FIG. 1 of Wilson, a customer (110) having an associated geographical location communicates with a client (120). The Office Action asserts that "client is interpreted to be a management unit." The client (120, FIG. 1) generates a request on behalf of the customer to a promising engine (130), which is in communication with a plurality of warehouses via an Warehouse Management system (190). The promising engine (130) identifies the nearest shipping warehouse, which is capable to ship a requested item to the customer (110) within a specified timeframe.

Claim 1 is directed to method of providing delivery information for order-received products to a customer. The method comprises **“entering requirement information of products from the customer to a management unit”**, **“providing the customer with shipment guarantee information from said management unit**, which shipment guarantee information includes at least a deliverable volume provisionally allocated to said products to be delivered by an appointed delivery date, according to a temporary order included in said requirement information”, **“receiving formal order-receiving information of the products by the management unit from said customer in response to said shipment guarantee information”**, and **“formally allocating a shipment volume for said products corresponding to said shipment guarantee information, by the management unit, considering the order included in said received formal order-receiving information,”** (emphasis added).

The Office Action alleges that the entering of requirement information and the providing of the customer with shipment guarantee information are disclosed in paragraphs [0024] and [0029] of Wilson. Paragraph [0024] states that the Wilson's concept may have various embodiments such as, a method, a system or a computer program. Paragraph [0024] may be relevant to the preambles of claim 1, 4, 7 and 10 but does not contain any relevant information or description relative to claimed operations. Operations and elements of the system illustrated in FIG. 1 of Wilson are described in paragraph [0029]. Requests for promises and requests for orders, which the Examiner interprets as suggesting the requirement information and the formal order-receiving information, are submitted from the client to (120) to the promising engine (130). This manner of operation contradicts the assertion that the client of Wilson's system performs similar to the management unit of claim 1. The management unit of claim 1 is the recipient and not the originator of the requirement information and the formal order-receiving information.

Further, paragraphs [0037] and [0091] of Wilson are additionally cited as disclosing the features of claim 1. Paragraph [0037] discusses the request for promise and the request for order, their format and content, and emphasizes that the customer's input of the geographical location is required (see paragraph [0037], lines 17-21). Paragraph [0091] provides details related to the Order Management System, which insures the Order Management function in the Promising Engine. It is unclear how the Examiner asserts applying specific teachings of the indicated paragraphs to individual features of the claims.

The indicated paragraphs and Wilson as a whole do not anticipate claim 1 at least because:

- the operations recited in claim 1 are performed by the customer and the management unit, while in Wilson the system has at least three parties involved (i.e., the customer, client, and promising engine); and
- Wilson requires the geographic location information, while claim 1 emphasizes the timing/volume aspect within the supply chain.

Therefore, Wilson does not anticipate claim 1, and based on similar arguments Wilson also does not anticipate claims 4, 7, and 10. Consequently, independent claims 1, 4, 7, and 10 and dependent claims 2, 3, 5, 6, 8 and 9 depending from the independent claims, respectively, patentably distinguish over the prior art. Applicant traverses the rejections and respectfully requests reconsideration of the claims.

CONCLUSION

If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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